

with non-tribal land have off-reservation land put into trust to create larger contiguous tribal lands within the reservation's boundaries. If tribes or their members acquire fee title to lands, they are subject to the same taxation and other jurisdiction as any other landholder. If, however, a tribe or tribal member acquires property and the title to such property is held by the United States in trust, the land is not subject to state or local control, including state or local taxation.⁴¹ Thus, tribes gain sovereignty – albeit limited – over those lands held in trust.

In 1980, the Department of the Interior promulgated regulations to govern its exercise of authority to take land in trust under IRA. These regulations, contained in Chapter 25, Part 151 of the Code of Federal Regulations (Part 151), set forth the procedures to be used and factors to be considered when the Department reviews a trust land acquisition. Until they were amended effective June 23, 1995, 25 C.F.R. § 151.10 listed the following factors:

- (a) The existence of statutory authority for the acquisition and any limitations contained in such authority;
- (b) The need of the individual Indian or the tribe for additional land;
- (c) The purposes for which the land will be used;
- (d) If the land is to be acquired for an individual Indian, the amount of trust or restricted land already owned by or for that individual and the degree to which he needs assistance in handling his affairs;
- (e) If the land to be acquired is in unrestricted fee status, the impact on the State and its political subdivisions resulting from removal of the land from the tax rolls;
- (f) Jurisdictional problems and potential conflicts of land use which may arise; and
- (g) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional

⁴¹25 U.S.C. § 465; *see e.g.*, *U.S. v. Anderson*, 625 F.2d 910, *cert. denied*, 450 U.S. 920 (1980).